

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALHANA JORDAN DEWEESE,
Minor.

EDWARD HIAESHUTTER and ANGELA
HIAESHUTTER,

UNPUBLISHED
March 18, 2004

Petitioners-Appellees,

V

JAMES DEWEESE,

No. 248982
Kent Circuit Court
Family Division
LC No. 02-254901-NA

Respondent-Appellant,

and

KELLY RAIMER,

Respondent.

Before: Griffin, P.J., and White and Donofrio, JJ.

MEMORANDUM.

Respondent-appellant James DeWeese appeals as of right from the trial court's order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g). We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 5.974(I)¹; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Under this standard, the trial court's decision "must strike [the reviewing court] as

¹ The court rules for child protective proceedings were amended and recodified as part of new MCR subchapter 3.900, effective May 1, 2003. This opinion refers to the rules in effect at the time of the trial court's decision.

more than just maybe or probably wrong.” *In re Trejo, supra*, 341, quoting *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *In re Miller, supra*, 337. This Court gives due regard to the trial court’s unique ability to assess the witnesses’ credibility. *Id.*

Here, the trial court did not clearly err in finding that § 19b(3)(g) was established by clear and convincing evidence. Respondent’s pre-incarceration history of domestic violence, criminal activity, sporadic employment, and irresponsibility and immaturity, combined with his poor prison record, establish that he failed to provide proper care and custody in the past, and that he is not reasonably likely to stabilize his life and become a responsible parent within a reasonable time. At the time, respondent was serving prison terms for armed robbery and malicious destruction of property, his release date had been set back, and he would not be released within a reasonable time to provide proper care and custody. The trial court also did not clearly err in declining to find that termination was contrary to the child’s best interests. MCL 712A.19b(5), *In re Trejo, supra*, 356-347.

We acknowledge the trial court’s concerns regarding collusion between petitioners and respondent Kelly Raimer, and petitioners’ interference with respondent’s attempts to send correspondence to the child. Although circumstances such as these carry a potential for serious injustice, that potential was not realized here.² Rather, respondent’s parental rights were terminated because of his history of violence, instability, and irresponsibility, none of which can be attributed to petitioners’ conduct.

Affirmed.

/s/ Richard Allen Griffin
/s/ Helene N. White
/s/ Pat M. Donofrio

² Kelly Raimer relinquished her parental rights.